IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

MFA.No. 274 of 2003(A)

O.P.(MV) No.858/1996 ON THE FILE OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, NEYYATTINKARA

APPELLANT: 1ST RESPONDENT

S.GEORGE,
PREETHA COTTAGE,
PATTIYAKKALA, MULLUVILA P.O NEYYATTINKARA.

BY ADV. SRI.R.T.PRADEEP

RESPONDENTS: APPLICANTS & RESPONDENTS (2)&ADDL.RESPONDENTS (3) &(4)

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1. SARASAMMA PILLAI,
D/O.KAMALAMMA PILLAI,KULATHAIKKAL VEEDU,
KURUTHENCODE P.O.

2. THE MANAGER, UNITED INDIA INSURANCE
CO.LTD,NEYYATTINKARA,

3. T.NELSON, T.N.SADANAM, THETTIVILA,
KALLIYOOR.P.O.

4. D.NELSON, KINARUVILA PUTHEN VEEDU,
CHAIKULAM, VEERANAKAVU,KATTAKADA.P.O.

R3 BY ADV. SRI.PIRAPPANCODE V.SREEDHARAN NAIR
R2 BY ADV. SMT. P.K.SANTHAMMA
R1 BY ADV. SHRI G.SUDHEER
R4 BY ADV. SHRI M.RAMASWAMI

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 5/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J.

M.F.A.No.274 of 2003

Dated, this the 5th day of December, 2007

JUDGMENT

The first respondent in O.P.(MV) No.858/1996 on the file of the Motor Accidents Claims Tribunal, Neyyattinkara is the appellant. Appeal is filed against an award passed by the Tribunal by which the appellant and the additional fourth respondent were made liable for the compensation amount awarded in the case. First respondent/claimant sustained injuries in a motor vehicle accident. She filed a petition claiming compensation impleading the appellant as well as the insurer. The appellant raised a contention that he transferred the vehicle to one T.Nelson. That person was impleaded as additional third respondent in the Original Petition. Additional third respondent raised a contention that he sold the vehicle to one D.Nelson. He was also impleaded as additional fourth respondent in the Original Petition. There was no insurance coverage to the vehicle. Tribunal found that accident occurred due to the negligence of the appellant. It also found that the first respondent/claimant is entitled to get Rs.23,000/- as compensation and directed the appellant as well as the additional fourth respondent who is the owner to pay compensation. Challenging that award the first respondent in the Original Petition who was impleaded as the owner-cum-rider has filed this appeal.

2. The main argument raised by the counsel for the appellant that he was neither the rider nor the owner of the vehicle and that contention was raised

before the Tribunal also and that is the reason why the additional third and fourth respondents were impleaded. It is argued that the Tribunal ultimately made the appellant also liable.

3. Learned counsel appearing for the first respondent/claimant submitted that if the order is set aside and the case is remanded, the matter will be again delayed and first respondent/claimant will not execute the award passed against the appellant. So the appellant can be absolved off from the liability. It is submitted that that concession is to be shown against the appellant alone and not against the additional fourth respondent. The counsel for the appellant submits that in case the first respondent/petitioner in the Original Petition undertakes that she will not execute the award against the appellant the appeal may be disposed of recording that undertaking. Since the first respondent/claimant undertake that she will not execute the award passed against the appellant, I am of the view that this appeal can be disposed of recording that submission.

In the result, appeal is disposed of recording the undertaking made by the first respondent/claimant that she will not execute the award as against the appellant alone. Award in all other respects is confirmed.

C.M.P.No.1264/2003 will stand dismissed.

K. PADMANABHAN NAIR,
JUDGE.

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K.PADMANABHAN NAIR, J.

M.F.A.No.274 of 2003

JUDGMENT

5th December, 2007.